

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT WHARTON,

Petitioner,

v.

DONALD T. VAUGHN, et al.

Respondents.

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CIVIL ACTION

No. 01-6049

THIS IS A CAPITAL CASE

ORDER

AND NOW, this 4th day of March, 2019, upon consideration of the Philadelphia District Attorney's Office's "Notice of Concession of Penalty Phase Relief" (Doc. No. 155), and the parties' "Notice of Joint Filing of Proposed Order" (Doc. No. 156), and for the reasons set forth in the accompanying Memorandum Opinion, it is **ORDERED** that the parties' request that I adopt the Proposed Order is **DENIED**.

It is further **ORDERED** that each party may file, **within 30 days of the date of this Order**, a brief addressing the issues raised in the accompanying Memorandum Opinion, specifically: (1) whether I have the authority and/or the obligation to grant habeas relief to Petitioner based solely on the District Attorney's concession of the remaining habeas claim, or whether I must independently review, and determine the merits of, that now-conceded claim; and (2) if I must make an independent determination on the merits, whether that is possible on the current record, without conducting the evidentiary hearing as directed by the United States Court of Appeals for the Third Circuit.

BY THE COURT:

/s/ Mitchell S. Goldberg

Mitchell S. Goldberg, J.